

UNITED STATES DISTRICT COURT
SOUTHRN DISTRICT OF NEW YORK

UNDERPINNING & FOUNDATION SKANSKA,
INC.,

Plaintiff,

vs.

TRAVELERS CASUALTY & SURETY COMPANY
OF AMERICA,

Defendant.

Docket No. 07 CV 7348 (WHP)

**PROPOSED DISCOVERY PLAN
PURSUANT TO F.R.C.P. 26(f)**

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, the parties submit the following discovery plan for the Court's consideration in connection with the initial conference scheduled for December 7, 2007.

1. The automatic disclosures required by Rule 26(a)(1) of the Federal Rules of Civil Procedure shall be made by December 21, 2007.
2. No additional interrogatories beyond the subjects permitted under Local Civil Rule 33.3 are needed at this time.
3. The maximum number of requests for admissions by either party shall be thirty.
4. Plaintiff contemplates taking up to five party depositions and fifteen non-party depositions.
5. Defendant contemplates taking up to five party depositions and fifteen non-party depositions.
6. Depositions of party witnesses shall be completed by September 8, 2008.
7. Factual discovery shall be completed by September 8, 2008.

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8. Plaintiff may retain two (non-medical) expert witnesses to provide testimony at trial. The report of any expert retained by plaintiff to testify in connection with its affirmative claims shall be produced by October 8, 2008. The report of any expert retained by plaintiff to rebut the experts retained by defendant in connection with defendant's assertion of the existence of any backcharges, credits or other defenses or set-offs against the amounts otherwise due plaintiff shall be produced by November 10, 2008.

9. Defendant may retain two (non-medical) expert witnesses to provide testimony at trial. The report of any expert retained by defendant to testify in connection with its assertion of any backcharges, credits or other defenses or set-offs against the amounts otherwise due plaintiff shall be produced by October 8, 2008. The report of any expert retained by defendant to rebut the experts retained by plaintiff in connection with plaintiff's affirmative claims shall be produced by November 10, 2008.

10. Expert discovery shall be completed by December 10, 2008.

11. Discovery shall proceed from the inception as to all issues, and not in phases.

12. Discovery may be needed on all issues relating to the claims and defenses in this action. Specifically, the subjects on which discovery may be needed include the work of Plaintiff on the subject construction project, including pile driving (tapertube and soldier piles) and load tests; the work of Urban Foundation/Engineering, LLC (including that of its subcontractors) ("Urban Foundation") on the subject construction project, including earth work, concrete work and other foundation work; the delays to Plaintiff's and Urban Foundation's work; the costs claimed as damages by Plaintiff and as set-offs or defenses by Defendant; and the negotiation of and the terms of the subcontract between Plaintiff and Urban Foundation.

13. The parties do not have any issues relating to the disclosure of electronically stored information at this time.

14. All document discovery (including electronically stored information) shall be made without waiver of any claim of privilege as to inadvertently produced materials. Any party seeking to assert a claim of privilege as to any inadvertently produced materials shall do so promptly after the production, which shall be asserted by a letter identifying the materials claimed to be privileged and the basis of the privilege.

15. The one day/seven hour time limit to depositions under Rule 30(d)(2) shall not apply to depositions for this action.

16. Either party may move to amend its pleadings by February 1, 2008.

17. The parties do not propose joining any additional parties.

18. Motions for summary judgment may be filed thirty days after the completion of all discovery.

PECKAR & ABRAMSON, P.C.

Attorneys for Plaintiff

By: 

Alan Winkler (AW3217)

41 Madison Avenue, 20th Floor
New York, N.Y. 10010
(212) 382-0909
awinkler@pecklaw.com

MCDONOUGH MARCUS COHN
TRETTER HELLER & KANCA, LLP
Attorneys for Defendant

By: 

Frank T. Cara (FTC-9677)
145 Huguenot Street
New Rochelle, N.Y. 10801
(914) 632-4700
ftcara@mmcthk.com

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